



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

November 29, 2011

**MEMORANDUM**

To: The Commission

Through: Alec Palmer  
Staff Director

From: Patricia Carmona *PC*  
Chief Compliance Officer

Thomas Hintermister *TH*  
Assistant Staff Director  
Audit Division

Alex Boniewicz *AB*  
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By: Kendrick Smith *KS*  
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Subject: Audit Division Recommendation Memorandum on Chris Dodd for  
President, Inc. (CDFP)

Discussed below are revisions to the attached Draft Final Audit Report (DFAR) as well as the Audit Division's recommendations. The revisions and recommendations are based on CDFP's response to the DFAR and the audit hearing. The Office of General Counsel reviewed this memorandum, concurs with the recommendations and provided the attached comments.

CDFP submitted its response to the DFAR and requested an audit hearing on July 26, 2011. On August 31, 2011, CDFP presented certain matters at an audit hearing before the Commission.

**Finding 1. Net Outstanding Campaign Obligations**

CDFP did not mention this matter in its response to the DFAR or during the audit hearing. The Audit staff recommends that the Commission find that the Candidate did not receive matching fund payments in excess of his entitlement.

## **Finding 2. Receipt of Prohibited Contribution and Contributions that Exceed Limits**

### **A. Receipt of Prohibited Contribution**

In its response to the DFAR and during the audit hearing, CDFP stated there was no sound basis for a finding that it received a prohibited contribution from the International Association of Firefighters (IAFF). CDFP stated the following factors for the Commission's consideration:

First, CDFP believes the amount in question should be \$12,088, not \$15,423, since this was the amount billed to CDFP. Second, CDFP contends the billing was actually not from the union itself, but rather the union's separate segregated fund, FIREPAC. Although it is uncertain, CDFP suggested that the invoice may have been printed on the IAFF's letterhead and presented as an agreement between the union and CDFP because the union handled the administrative functions of its separate segregated fund. Third, CDFP noted that it eventually overpaid FIREPAC out of an abundance of caution and that FIREPAC appropriately reported a debt owed by CDFP and subsequently deposited CDFP's payment into its account. Finally, CDFP took exception to language in the DFAR that CDFP "did not consider the resolution of the contribution a high priority obligation."

The Audit staff offers the following concerning CDFP's response to the DFAR and comments presented at the audit hearing. The Audit staff maintains that the amount of the prohibited contribution is \$15,423. At the time the RV rental costs were incurred, the IAFF paid for the RV rental cost on behalf of CDFP, thereby giving something of value to CDFP, namely, the RV rental cost that CDFP should have paid. CDFP eventually repaid the IAFF for the RV rental cost, more than a year and a half from the invoice date. Therefore, the value of the prohibited contribution should be the ordinary market cost of renting the RV and not the pro-rata amount of \$12,088.

With respect to the question of whether the union or FIREPAC billed CDFP, the Audit staff provides the following information. First, the IAFF billed CDFP for use of the RV. The invoice was printed on the IAFF's letterhead and includes language that indicates an agreement between the IAFF and CDFP for the RV's usage. The only mention of FIREPAC is regarding payment. As such, in subsection "1. Facts" of section "A. Receipt of Prohibited Contribution" (page 10); more detail regarding the invoice from the IAFF will be included in the audit report. Specifically, the Proposed Final Audit Report (PFAR) will state that the invoice was printed on the IAFF's letterhead and include CDFP's explanation presented at the audit hearing that the invoice was printed on the IAFF's letterhead since it handled the administrative functions of FIREPAC.

Concerning CDFP's payment to FIREPAC for use of the RV, the Audit staff notes that the DFAR clearly acknowledges that CDFP eventually overpaid \$32,233 to FIREPAC for the rental and wrapping associated with the RV and further details FIREPAC's reporting of the debt, as well as the timing of CDFP's payment (DFAR, p. 11). It is the Audit staff's opinion that CDFP accepted a contribution from a labor organization and repaid the amount more than a year and a half after the invoice date.

Finally, in regard to the language that CDFP "did not consider the resolution of the contribution a high priority obligation," (DFAR, p. 12), the Audit staff concurs with CDFP and the sentence in question will be removed from the PFAR.

The Audit staff recommends that the Commission find that CDFP received a prohibited contribution of \$15,423 from the IAFF.

**B. Apparent Excessive Contributions from Other Political Committees**

CDFP did not offer any comments in its response to the DFAR or at the audit hearing regarding this portion of the finding.

The Audit staff recommends that the Commission find that CDFP received excessive contributions from other political committees totaling \$44,300.

**C. Receipt of Excessive General Election Contributions**

In its response to the DFAR and during the audit hearing, CDFP maintained that the audit report should make clear that, for the bulk of the excessive contributions, CDFP timely obtained redesignations and issued refunds. CDFP continued to assert that this finding arose from an audit error and this resulted in language being removed from the DFAR, which previously had been included in the Preliminary Audit Report.

CDFP stated that it transferred all its general election contributions to the Candidate's Senate campaign, Friends of Chris Dodd (FOCD). In addition, CDFP stated that the DFAR incorrectly stated (1) that it had not provided the required redesignation letters necessary to transfer the excessive contributions, (2) that it resolved excessive contributions of \$160,050 in an untimely manner and (3) that contributions of \$173,210 have not been transferred to FOCD.

The Audit staff agrees that the disposition of the excessive contributions could have been presented in a more precise manner in the DFAR. As such, in the PFAR, the Audit staff will modify the summary on page 4 (Part III - Summaries) and page 9 (Part IV - Findings and Recommendations) to provide a more precise presentation of excessive contributions that have been resolved by CDFP and of excessive contributions that still require resolution. Specifically, the Audit staff will clarify that of the \$51,000 in excessive contributions from other political committees, \$4,800 remains unresolved and of the \$244,050 in excessive general election contributions received by CDFP, only \$7,100 remains unresolved. Also, the Audit staff will remove footnote 10 (DFAR, p.13) in the PFAR.

CDFP took exception to the Audit staff's statement that certain documentation "was not previously available." Although the Audit staff made copies of the documentation provided during audit fieldwork, it is acknowledged that the language in the DFAR may not be a fair representation of CDFP's efforts to respond to the Preliminary Audit Report recommendations. Therefore, the Audit staff will remove the language in the PFAR.

Regarding CDFP's assertion that the DFAR incorrectly presented excessive contributions of \$160,050 as resolved in an untimely manner, the Audit staff has modified the finding to more accurately reflect CDFP's resolution of some excessive

contributions. Specifically, excessive contributions totaling \$144,950 previously categorized as resolved in an untimely manner have been re-categorized as resolved in a timely manner. The Audit staff and OGC concur that CDFP's action with respect to these refunds was made in accordance with guidelines outlined in Advisory Opinion 2008-04.

CDFP also claims that the DFAR incorrectly states that contributions of \$173,210 have not been transferred to FOCD. CDFP has provided the necessary redesignation letters for these contributions and, as a result, the Audit staff will remove footnote 11 (DFAR, p.14) from the PFAR.

The Audit staff recommends that the Commission find that CDFP received excessive general election contributions of \$241,950 (\$244,050 less a contribution of \$2,100 that CDFP demonstrated was not excessive), of which all but \$7,100 have been resolved.

### **Finding 3. Misstatement of Financial Activity**

After consideration of CDFP's response to the DFAR and its comments during the audit hearing, the Audit staff will clarify in the PFAR that CDFP's net realized losses of \$150,370 should be reported on Schedule A-P (Itemized Receipts), Line 21 (Other Receipts) as a negative receipt.

The Audit staff recommends that the Commission find that CDFP misstated its financial activity for 2008.

If this memorandum is approved, a Proposed Final Audit Report will be prepared within 30 days of the Commission's vote.

Should an objection be received, Directive No. 70 states that the Audit Division Recommendation Memorandum will be placed on the next regularly scheduled open session agenda.

Documents related to this audit report can be viewed in the Voting Ballot Matters folder. Should you have any questions, please contact Kendrick Smith or Alex Boniewicz at 694-1200.

#### **Attachments:**

- Draft Final Audit Report on Chris Dodd for President, Inc.
- Office of General Counsel Analysis (ADRM) Received on November 18, 2011
- Office of General Counsel Analysis (DFAR) Received on May 24, 2011

cc: Office of General Counsel